

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7295

In Re: KELVIN J. MILES,

Petitioner.

On Petition for Writ of Mandamus.
(CA-04-2676-8-AW)

Submitted: November 30, 2005

Decided: December 12, 2005

Before NIEMEYER and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition dismissed by unpublished per curiam opinion.

Kelvin J. Miles, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Kelvin J. Miles petitions this court for writ of mandamus. He seeks review of a recent district court order denying his motion for appointment of counsel and to amend. Mandamus is a drastic remedy and should be used only in extraordinary situations. Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus relief is only available when there are no other means by which the relief sought could be granted, id., and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Miles has failed to make the requisite showing, and we dismiss the mandamus petition. We deny leave to proceed in forma pauperis and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED